



# MISSOURI DEPARTMENT OF MENTAL HEALTH



DEPARTMENT  
OPERATING  
REGULATION  
NUMBER

DOR  
8.020

KEITH SCHAFER, DEPARTMENT DIRECTOR

CHAPTER Regulatory Compliance	SUBCHAPTER HIPAA Regulations	EFFECTIVE DATE 7/1/09	NUMBER OF PAGES 3	PAGE NUMBER 1 of 3
SUBJECT Policy: Consumer Right to Request Restrictions on the Use or Disclosure of Protected Health Information (PHI)		AUTHORITY Section 630.050 RSMo.		History See Below
PERSON RESPONSIBLE General Counsel			SUNSET DATE 7/1/12	

**PURPOSE:** Consumers have the right to request from any DMH facility specific restrictions on the use or disclosure of PHI as requested on "Request to Restrict Information" form. In accordance with federal regulations, (45 CFR Section 164.522(a)), no DMH facility is required to agree to requested restrictions on the use or disclosure of PHI listed on the Consent or "Request to Restrict Information". The "Request to Restrict Information" form is attached to this DOR.

**APPLICATION:** The Department of Mental Health, its facilities and workforce.

**(1) CONTENTS:**

- (A) Definitions
- (B) Request for restriction on use or disclosure of Personal Health
- (C) Information
- (D) Agreement or Denial of Request
- (E) Termination of restriction

**(2) DEFINITIONS:**

(A) Consumer: Any individual who has received or is receiving services from a Department of Mental Health state operated facility.

(B) Personal Representative: Person with a court order appointing them as guardian or with a valid Durable Power of Attorney or an Advance Directive signed by the consumer specifying the authority to review and make decisions regarding medical, psychiatric, treatment or habilitation concerns.

(C) Protected Health Information (PHI): Individually identifiable health Information that is transmitted or maintained in any form or medium, by a covered entity, health plan or clearinghouse as defined under the Health Insurance Portability and Accountability Act (HIPAA), 45 CFR Part 160 and 164.

(D) Individually Identifiable Health Information: Any information, including demographic information, collected from an individual that -

1. is created or received by a healthcare provider, health plan, employer, or healthcare clearinghouse; and

2. related to the past, present, or future physical or mental health or condition of an individual; the provision of healthcare to an individual; or the past, present, or future payment for the provision of healthcare to an individual, and

a. identifies the individual, or

b. there is reasonable basis to believe that the information can be used to identify the individual.



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## (3) REQUEST FOR RESTRICTION ON USE OF DISCLOSURE OR PROTECTED HEALTH INFORMATION

(A) Consumers shall indicate their request for restriction on the use or disclosure of their PHI using the "Request to Restrict Information" form as attached.

(B) The requested restrictions must be provided in writing, signed and dated by the consumer or personal representative.

## (4) AGREEMENT OR DENIAL OF REQUEST:

(A) The Privacy Officer, or designee, shall receive the written request. The Privacy Officer, in consultation with the chief executive officer or superintendent or director of the facility, and the DMH Chief Information Officer or designee, shall determine whether it will be approved.

1. If approved, the facility must implement the restriction.

2. The facility Privacy Officer or designee will identify the restriction on the face sheet of the consumer's medical record.

(B) The facility's agreement or refusal of the request shall be documented on the request form, signed and dated by the Privacy Officer or designee.

(C) The original will be filed in the Medical Record for permanent retention

(D) A copy of the approved or denied form will be provided to the consumer.

## (5) TERMINATION OF RESTRICTION:

(A) DMH facilities may terminate the agreement to a restriction if:

1. The consumer agrees to or requests the termination in writing.

2. The consumer orally agrees to the termination and the oral agreement is documented.

3. The facility informs the consumer that it is terminating its agreement to a restriction and that such termination is only effective with respect to PHI created or received after it has so informed the individual.

4. When any of the above criteria are met, the restriction will be removed, and the form will be dated and signed by the Privacy Officer.

5. If the restriction was identified on the face sheet of the consumer's medical record, that identification shall be removed by the Privacy Officer or designee.

## (6) EMERGENCY EXCEPTION:

(A) If the facility has agreed to the restriction, but the consumer who requested the restriction is in need of emergency treatment, and the restricted PHI is needed to provide the emergency treatment, the facility may disclose that PHI to a health care provider to provide such treatment.

(B) If such PHI is disclosed in an emergency situation, the facility must require that the health care provider to whom the information was disclosed not further use or disclose that PHI.



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(7) SANCTIONS. Failure of staff to comply or assure compliance with the DOR may result in disciplinary action, including dismissal.

(8) REVIEW PROCESS. The Central Office Privacy Officer shall collect information from the facility Privacy Officers during the month of April each year to monitor compliance with this DOR. (NOTE: Any restrictions that are granted shall be identified in CIMOR, when that system is available. The Medical Record shall also be flagged when the restriction is granted).

(9) There shall be no facility policies pertaining to this topic. The Department Operating Regulation shall control.

*HISTORY: Original DOR effective January 1, 2003. Final DOR effective June 1, 2003. Amendment effective July 1, 2006. On July 1, 2009, the sunset date was extended to July 1, 2012.*



STATE OF MISSOURI  
DEPARTMENT OF MENTAL HEALTH  
REQUEST TO RESTRICT PROTECTED HEALTH INFORMATION

Consumer Name and SSN:

Statewide ID/Local Facility ID

Consumer Address

Please specify the information to be restricted:

Please explain why the disclosure of the above specified information may not be appropriate:

Please indicate the individual, care provider, or any legal representative to whom access should be denied

Individual's Name

Relationship to Consumer

Signature of Consumer or Legal Representative

Date

Missouri Department of Mental Health Use Only

Date Received

Restriction has been  
accepted

denied

Comments:

Completed Copy of this Form provided to Consumer on \_\_\_\_\_(date)

Condition Upon Which Restriction will Expire: (Check one only).

☐ Consumer request.

☐ Justification for the restriction no longer exists

☐ Other:

Name and Title of Staff Member processing request

Signature of Privacy Officer or designee

Date